DOCUMENT RESUME

ED 192 653 HE 013 120

AUTHOR Simmons, Gertrude L.
TITLE The Impact of Implementing Title IX in a Predominantly Black Public University.
PUB DATE [79]
NOTE 21p.

EDRS PRICE MF01/PC01 Plus Postage.
DESCRIPTORS Athletics; *Black Colleges; College Admission; College Faculty; College Students; *Compliance (Legal); Educational Opportunities; Employment Practices; *Equal Education; Equal Opportunities (Jobs); Federal Legislation; *Federal Regulation; Females; Higher Education; Males; Personnel Policy; *Sex Discrimination; State Colleges; Teacher Salaries; *Womens Athletics
IDENTIFIERS *Florida A and M University

ABSTRACT

Information on the impact of implementing Title IX of the 1972 Education Amendments at Florida A and M University, a predominantly Black public university, is presented. Title IX assures everyone regardless of sex an equal opportunity to learn a skill, choose a course of study, advance in status, participate in a sport, receive a scholarship, or otherwise benefit from the offerings of any institution supported by federal aid. The regulations apply in three main areas: admission of students, treatment of students, and employment in the institution. Treatment of students relates to access to and participation in course offerings, and all extracurricular activities including student organizations and athletics. It is upon the enforcement of the regulations related to intercollegiate athletics that the most heated discussions have taken place. Compliance is evaluated in terms of elimination of discrimination in athletic programs and elimination of the discriminatory effects of the historic emphasis on men's sports. Doubt about the per capita method of providing money to women's sports is expressed, and a breakdown of the financial aspects of the men's and women's athletic programs is presented. In relation to employment, the employer must provide equal pay to male and female employees performing the same work, and no female may be excluded from employment because of pregnancy. Actions taken by Florida A and M to comply with the regulations regarding employees are described. (SW)

****
* Reproductions supplied by EDRS are the best that can be made *
* from the original document. *
****

ED192653

THE IMPACT OF IMPLEMENTING TITLE IX IN A PREDOMINANTLY BLACK PUBLIC UNIVERSITY

by

Gertrude L. Simmons

Vice President for Academic Affairs

FLORIDA A AND M UNIVERSITY

Tallahassee, Florida

"PERMISSION TO REPRODUCE THIS MATERIAL HAS BEEN GRANTED BY

Gertrude L. Simmons

TO THE EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)."

U S DEPARTMENT OF HEALTH, EDUCATION & WELFARE NATIONAL INSTITUTE OF EDUCATION

THIS DOCUMENT HAS BEEN REPRODUCED EXACTLY AS RECEIVED FROM THE PERSON OR ORGANIZATION ORIGINATING IT. POINTS OF VIEW OR OPINIONS STATED DO NOT NECESSARILY REPRESENT OFFICIAL NATIONAL INSTITUTE OF EDUCATION POSITION OR POLICY

NE 013120

THE IMPACT OF IMPLEMENTING TITLE IX IN A PREDOMINANTLY BLACK PUBLIC UNIVERSITY

Title IX of the 1972 Education Amendments was passed by Congresss for the purpose assuring that everyone regardless of sex would have an equal opportunity to learn a skill, choose a course of study, enjoy advancement in status, participate in a sport, gain a scholarship or otherwise enjoy the offerings of any institution deriving support from federal dollars. The law thus affects all public systems of education at the elementary and secondary level, some private K-12 schools, all systems of public post-secondary education and a significant proportion of private colleges and universities. Title IX is patterned after Title VI of the Civil Rights Act of 1964 which prohibits discrimination against students on the basis of race, color, and national origin in any and all federally assisted programs. It is limited to education programs but covers both students and employees of the institutions in question. In short, the regulations apply in three main areas: admission of students, treatment of students, and employment.

SEP 2 2 1980

Admission of Students

The application of the regulations regarding admissions is limited to vocational education, professional education, graduate higher education and public institutions of undergraduate education except those traditionally single-sex schools which are exempted from compliance. As admissions include recruitment of students, comparable efforts must be expended in the recruitment and admission of members of both sexes. Where it can be shown that there has been past discrimination of recruitment and/or admission, special effort must be made to provide for the sex group which has suffered from the past discrimination.

At Florida A and M University all publicity materials, recruitment brochures, stationery, Bulletins and other materials used to attract students to the University now bear a statement which declares the University to be an equal access, equal opportunity institution. All recruitment and articulation personnel are instructed to provide access to all programs without consideration for sex, race or national origin. The University enrolls all student applicants who present adequate academic qualifications. The several limited access programs such as pharmacy, nursing, business and architecture enroll the best qualified students on a space available basis.

Treatment of Students

It has been in the area of student treatment that most of the concern for tne enforcement of Title IX appears to exist. Although some schools are exempt from the requirements regarding admissions, all schools must treat their enrolled students in a non-discriminatory fashion. Treatment of students relates to access to and participation in course offerings, and all extra-curricula activities including student organizations and athletics. It is upon the enforcement of the regulations related to inter-collegiate athletics that the most heated discussions have taken place. This, I am sure results from the nervous concern experienced by our male athletes, coaches, athletic directors and college/school presidents about the continued viability of foot-ball and other male varsity sports. Much energy has been expended toward the achievement of the exemption of the so-called revenue earning sports, particularly, football, from the regulations.

As early as 1974, Senator John Tower of Texas introduced an amendment to Title IX which would have exempted revenue producing athletics from the regulations. This amendment was later eliminated by a Conference Committee which instead adopted what is now known as section 844 of the 1974 Amendments, commonly referred to as the "Javits Amendments." It provides that "The Secretary

(of H. E. W.) shall prepare and publish . . . proposed regulations implementing Title IX of the Education Amendments of 1972 relating to the prohibition of sex discrimination in federally assisted education programs which shall include in respect to intercollegiate athletics activities reasonable provisions considering the nature of the particular sports."

Following President Ford's 1975 issuance of Title IX regulations unsuccessful attempts were again made to eliminate or circumscribe the application of the regulations as related to revenue producing sports.

On December 6, 1978 Secretary Joseph Califano circulated a memorandum to all affected colleges and universities outlining proposed procedures for enforcing the sections of Title IX related to intercollegiate athletics and dress codes. The Secretary invited the colleges and universities receiving the memorandum to respond with comments on and suggested amendments to the proposed implementations. Cheryl M. Fields writing in the April 23, 1979 Chronicle of Higher Education reports that presidents and athletic directors are bombarding H. E. W. with voluminous responses recommending principally the exemption of revenue producing sports from the regulations. It appears that women coaches and athletic directors were given little or no opportunity to have any in-put in the development of these college/university responses. Thus, if women's voices are to be heard at all on this subject,

they must resort to efforts through their athletic and education associations, to write, telephone and otherwise make contact with H. E. W. and their congressional representatives:

1. To press Congress to "oppose all amendments to Title IX, including any which would exempt athletics or revenue producing sports from full Title IX coverage.
2. To urge lawmakers to oppose riders on the H. E. W. appropriations bill which would inhibit H. E. W.'s ability to enforce Title IX in the area of athletics.
3. To press Mr. Califano to release the final policy interpretations "immediately without submitting them to unnecessary and potentially debilitating Congressional review."[1]

It is worth noting here that Secretary Califano in his memorandum spoke of recognizing that intercollegiate football, in particular is unique among sports, at some institutions, because of the size of its teams, the support staff and facilities it requires and the volume of revenue it generates. One could

---

[1]Cheryl M. Fields. "Women's Sports Groups Campaign to Preserve Proposed Anti-Bias Rules," The Chronicles of Higher Education, 23 April 1979, pp. 19.

almost believe that the Secretary is setting the stage for the final exemption of football from the regulations.

It is also worth noting that Mr. Peter Labassi, an attorney for H. E. W. upon the request of the Secretary in April of 1978 rendered an important legal opinion that:

> Title IX. . . prohibits sex discrimination in any "education program or activity," receiving Federal financial assistance. In our opinion, a revenue producing inter-collegiate athletic program is (a) an education program or activity within the meaning of Title IX and (b) an integral part of the general undergraduate program of an institution of higher education. Accordingly, in our opinion, an institution of higher education must comply with the prohibition against sex disdrimination imposed by Title IX in the administration of any revenue producing intercollegiate activity or the general education program of which the athletic program is a part which is receiving Federal financial assistance.[2]

---

[2]Peter Libassi, Memorandum to Secretary Califano, 18 April 1978, Department of Health, Education and Welfare.

But the pressure continues. The question now is whether or not the regulations should be sent to the Congress for further discussion. Representative William Ford of Michigan, Chairman of the House Post Secondary Education Sub-committee feels that Senate leaders would prefer not to deal with the issue again. Almost everyone familiar with the issue predicts that Congress would invalidate the policy interpretation if it got a chance. The Civil Rights Commission has gone on record as favoring the provision of a five-year exemption on the equal per capita expenditures regulation. Under this plan football would not be exempt at the end of the five year period but H. E. W. would then permit spending differences due to "sex neutral" factors.[3]

Secretary Joseph Califano interprets the Javits Amendment of 1974 as providing specific guidance to the Secretary of H. E. W. for enforcing the Title IX law. On December 6, 1978, Secretary Califano circulated a memorandum interpreting the meaning of sections of Title IX regulations and to tell college and universities how H. E. W. would evaluate their efforts at compliance. This memorandum has two major parts. Part one is aimed at the immediate elimination of discrimination in college and university

---

[3]Equal Opportunities in Higher Education, 23 April 1979, pp. 3-4

athletic programs. It provides for comparable expenditures on men's and women's athletics by requiring that funds expended be proportional to the number of individuals participating. It sets forth a standard of "substantially equal per capita expenditures" which must be made unless the institution can demonstrate that the differences are based on non-discriminatory factors.

The second part of the proposed policy provides for eliminating the discriminatory effects of the historic emphasis on men's sports, and to facilitate the continued growth of women's athletics by expanding athletic offerings to fully accommodate the rising interests of women in participating. The Secretary cites the historical inequities in the involvement of men and women in the participation in intercollegiage athletics and recommends the conditions which will permit women to enjoy the benefits of sports that have long been available principally to male students.

Following the release of H. E. W.'s proposed policy interpretation, a memorandum from J. Neils Thompson, president of the National Collegiate Athletic Association, was circulated to the members of the Association giving his version of the meaning of these proposed policy interpretations and the potential impact on member colleges and universities. He concluded that most member schools would find it difficult if not impossible to comply

fully with Title IX requirements and maintain sports programs at their current or better qualify levels.[4]

At Florida A and M University, 208 men athletes currently participate in eight varsity sports at an average per capita cost of $1320.00. Sixty-seven women athletes participate in five varsity sports at an average per capita cost of $891.00. There are seven F. T. E. coaches for men's sports and 2.2 F. T. E. coaches for women for a ratio of 30 to 1 in each case. But women's sports can be expected to grow very rapidly. At least four additional coaches at an annual cost of about $15,000 will be needed within the next three or four years. Total cost for additional coaches is $60,000. Per capita financial aid cost for men is $705.00. That cost for women is $501.00. The required additional spending to equalize financial aid for currently enrolled students would take $13,668. To equalize expenditures for recruiting would take $2881.00. To equalize expenditures for other readily financially measurable benefits, additional spending of $12,127 would be required. Allowing for a potential increase of 141 women athletes during the next year, we have calculated that the total

---

[4]J. Neils Thompson's letter to NCCA members, 13 December 1978, National Collegiate Athletic Association.

additional spending required to elevate women's intercollegiate sports offerings to the standards of those offered for men would be $242,579. If one charges the cost of four F. T. E. teacher-coaches at $60,000, these costs rise to $302,579.

Now, I do not want anyone to misunderstand me. I am for women's rights. Not being for women's rights would be like not being for civil rights and that would be at least silly. I am not at all sure, however, that the per capita method of providing money to women's sports is the solution. I would hope that we could work out a method of assuring that these activities have enough money to operate at the level of comparable men's sports. Do they have what they need to do that and is there a simple way to monitor this? We have a very competent women's Athletic Director who is building up a respectable sports program at Florida A and M. The first year of her tenure a reporter from the local newspaper interviewed her to determine whether she felt she was given sufficient support to build her program. Her responses to him were very negative -- she didn't get all the money she thought she should have been given, she didn't feel she was getting the kind of moral or economic support she needed et cetera and she said that if things did not change, she would be filing a complaint with H. E. W. This made for good news copy so she got a headline story in the paper. That had some positive results. It got a number of people's attention

both on the campus and off. But when we took a look at her budget we found that she had not been able to dispose of her entire allocation. This leads me to wonder if we should be bound to a certain per capita expenditure or to finding a way to determine what the real need is. When she was asked what her complaint was, she really didn't give a good answer. I can tell you, however, that if she had all the money she wanted or needed or could use, she would have been unique at Florida A and M.

There is a tremendous amount of excellent undeveloped athletic talent among our Black young women and I am in favor of whatever regulations we need to assure that there are sufficient resources provided to see that they are given an opportunity to benefit from the advantages which athletics can provide.

We must not become so preoccupied with the regulations which relate to intercollegiate athletics that we fail to duly note other valuable aspects of the Title IX amendments.

Under the section related to student treatment, an institution:

1. May not on the sole basis of sex provide different aid, benefits or services, or provide them in a different manner. For example, all loans, grants, scholarships, and fellowships must be equally available to all students regardless of sex.

Scholarship funds which had been given the University to support men only or women only had to be made available to all. An exception to this is for scholarships, fellowships, or grants made by foreign governments.

2. We may not on the sole basis of sex subject any person to separate or different rules of behavior or other treatment. For example, no longer can we ask female students to observe a curfew or other dormitory rules different from those required of male students.
3. We may not on the sole basis of sex discriminate against any person in the application of rules of appearance. In his December 6, 1978 memorandum, Secretary Califano proposed to reduce the Federal Government's participation in this portion of the regulation. He expressed the belief that decisions regarding the way students may dress or wear their hair are best made at the local level and not by the Federal Government. This does not,

however, free us from the obligation to observe this portion of the regulation.

4. We may not on the sole basis of sex apply any rule concerning the domicile or residence of a student or applicant. Single sex living quarters, toilets, locker rooms and shower facilities are permitted. But the quantity and quality of such living facilities may not differ on the basis of sex. At Florida A an M and perhaps at many of your schools, we shall probably be faced with the situation of reverse discrimination as our living facilities for female students have traditionally been generally superior to those provided for male students. We have not for many years attempted to restrict our female students in their choice of off-campus housing. The regulations of Title IX would not permit such prohibitions.
5. We may not on the sole basis of sex aid or perpetuate any agency, organization, or person which discriminates on the basis of sex in providing any aid, benefit, or service to students or employees. At Florida A and M

University we have initiated action in every service area in which sex discrimination might have become engrained. Course offerings have been examined to determine if the content treats equally the concerns and accomplishments of males and females; some special courses on the accomplishments of women have been placed in the curriculum; performance standards in co-ed classes have been adjusted so that there should be no adverse effects on members of any one sex; effort is made to eliminate the use of books and other text materials which are sex-biased; and all classes, courses and educational programs have been made equally accessible to both sexes. Indeed, many major areas which were traditionally male oriented such as agriculture, engineering technology, industrial arts and Naval and Army ROTC are now taking affirmative action to recruit female students. In 1974 female performers were permitted to join the famous "Marching 100" which had traditionally enrolled only males. Such areas as home economics, nursing and early childhood education are actively recruiting male students.

6. We may make no rules concerning a student's actual or potential parental, family or marital status which treat students differently on the basis of sex. The total educational program must be made available to all female students regardless of pregnancy, childbirth, false pregnancy, miscarriage, abortion or recovery therefrom. At Florida A and M, we used to dismiss unmarried women students for pregnancy; we used to prevent young women who were pregnant from participating in student teaching and other off-campus internship programs. These prohibitions may no longer be practiced. Instead, pregnant women students must be permitted to participate freely in all activities unless they request different assignments or upon the certification of their physicians may be excluded for the sake of their physical, mental, or emotional well being.

Employment

A third major area covered by Table IX is that of employment practices and policies. The regulations stipulate that no recipient employer may recruit and hire employees solely from discriminatory sources in connection with its educational program or activity. Further, the employer must provide equal pay to male

and female employees performing the same work in connection with its educational program or activity. No female may be excluded from employment because of pregnancy or pregnance-related conditions.

The 1976 Florida Legislature in compliance with Title IX enacted Florida Statute 241.735, a program to eradicate salary discrimination based on sex within certain faculty ranks. The law provided that:

1. The Division of Universities of the Department of Education is directed to undertake a program to eradicate discrimination on the basis of sex in the granting of salaries for the faculty ranks of professor, associate professor, assistant professor, and instructor.
2. Each member university of the State University System shall determine, based upon salary inequality studies to be completed no later than December 1, 1976, and annually thereafter, which female faculty members shall receive increases under the provisions of this act and the amount of any such increases. All such increases shall be retroactive to September 15, 1976.
3. On or before March 15, 1977, and annually thereafter, the Commissioner of Education shall report

> the results of completion of salary inequality studies at each state university to the Legislature, including in such report the individual amounts of salary increases at each state university.

The first year of the study, Florida A and M adjusted the salaries of forty-seven female employees for a total amount of $44,375 of adjustments averaging $944.00 per recipient. Each year thereafter, the sex equity study has been conducted with smaller adjustments in salaries of women being made where necessary. We are permitted also to adjust the salaries of male employees where it can be shown that the adjustment of female salaries within a unit has adversely affected the salary standing of the male employee in that unit.

Through Title IX all employees regardless of sex must be permitted to assume any office or position for which they are able to qualify. No longer may prestigious administrative positions be reserved for men. Although women are not having an easy time breaking into administrative ranks, this will change because women are qualified and becoming better qualified as time goes by. You must not continue to believe that the fact that almost all of the college and university presidents represented at this meeting are men means that they are smarter and better qualified for the jobs they have. There are women who can do the jobs at least as well as

they can. It is custom that is maintaining the maleness of their ranks. Although Title IX does not guarantee that women will rise to high administrative positions, the enforcement of its regulations tends to free women from the tyranny of ancient stereotypes and encourages them to perceive of assuming any role they choose.

Although at Florida A and M University as well as most predominantly Black colleges and universities women have traditionally been permitted to assume meaningful administrative-managerial roles, they lag far short of what would be a reasonable proportion in these categories. Fall, 1978 statistics show that of 111 persons who hold executive/administrative/mamagerial positions, 22 or 19.8% were female. Of the non-administrative faculty, there were only three female tenured full professors as compared to 20 males and ten full-time tenured associate professors as compared to 20 males in this category.

The enforcement of Title IX will pose some hardships for most institutions. Eliminating sexism like eliminating racism will not be easy. In the South whites used to be heard to say about changing racial policies, "This will change our way of life." And indeed, it has. But reducing racism has blown a breath of fresh life into the "Old South" and turned it into a thriving "Sun Belt" which has earned new respect from other parts of the nation and placed a native son in the White House. Elimination

of sexism will undoubtedly result in effects that are equally as dramatic.

If there were no sin there would be no need for redemption. We must not diffuse and weaken Title IX; we must make it work for the benefit and glory of all of us.